

1 THE HONORABLE JOHN C. COUGHENOUR
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7 UNITED STATES DISTRICT COURT
8 WESTERN DISTRICT OF WASHINGTON
9 AT SEATTLE

10 INDIRA RAI-CHOUDHURY,

11 Plaintiff,

12 v.

13 UNIVERSITY OF BRITISH COLUMBIA, a
14 foreign corporation,

15 Defendant.

CASE NO. C18-1153-JCC

ORDER

16 This matter comes before the Court on Defendant University of British Columbia's
17 motion to dismiss and for summary judgment (Dkt. No. 14). Having thoroughly considered the
18 parties' briefing and the relevant record, the Court finds oral argument unnecessary and hereby
19 GRANTS the motion for the reasons explained herein.

20 **I. BACKGROUND**

21 Margaret Rai-Choudhury passed away on November 25, 2016. (Dkt. No. 1-1.)¹ Margaret
22 was a resident of Whatcom County, Washington, and all of her real and personal property was
23 located in Whatcom County. (*Id.*) In September 1999, Margaret executed a will that devised her
24 community property interest in her husband's retirement account to her husband and devised the

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26 ¹ Margaret Rai-Choudhury will be referred to by her first name to avoid confusing her
with Plaintiff. The Court means no disrespect by using this naming convention.

1 rest of her property to trusts for the benefit of her husband and her daughter, Plaintiff Indira Rai-
2 Choudhury. (*Id.*) In July 2015, after filing for divorce from her husband, Margaret executed a
3 new will (the “2015 Will”). (*Id.*) The 2015 Will devised 50 percent of Margaret’s estate to
4 Defendant and 50 percent to a trust established for her grandchild. (*Id.*) The 2015 Will also made
5 Defendant the beneficiary of her non-probate assets. (*Id.*)

6 Defendant is a public university incorporated under the laws of Canada. (Dkt. No. 15.)
7 Defendant has two main campuses and several smaller facilities located throughout British
8 Columbia. (*Id.*) Defendant neither maintains a campus nor conducts operations or corporate
9 governance functions in Washington. (*Id.*) Margaret worked in the Circulation Division of
10 Defendant’s library for a few years in the mid-1950s, but had no contact with Defendant since
11 then. (*Id.*; Dkt. No. 1-1.) In 2017, Defendant learned that it had been named as a beneficiary in
12 the 2015 Will. (Dkt. Nos. 15, 17-2 at 15.) Defendant was also told that Plaintiff had been
13 disinherited and that a will contest was likely. (Dkt. No. 17-2 at 17.) The assets at issue have not
14 yet been distributed to Defendant. (Dkt. No. 15.)

15 In March 2017, Plaintiff sued Margaret’s estate in Washington state court, alleging that
16 the 2015 Will was invalid because Margaret was acting under an insane delusion, lacked
17 capacity, or was under an undue influence at the time she executed it. (Dkt. No. 16-1 at 2, 19.)
18 Margaret’s estate moved for summary judgment, which the state court granted after continuing
19 the hearing to allow Plaintiff to gather additional evidence. (*Id.* at 35–40, 50–73, 75–95.)
20 Plaintiff moved for reconsideration, which was denied. (*Id.* at 97–109, 112–16.) Plaintiff
21 appealed the state court’s decision, and the appeal remains pending. (*Id.* at 118.) During the state
22 court litigation, Defendant and Margaret’s estate corresponded about the case. (Dkt. No. 17-2 at
23 19–48.) In January 2018, Margaret’s estate sent Defendant the contact information for Wells
24 Fargo, as the non-probate asset at issue was a financial account held at Wells Fargo. (*Id.* at 50;
25 see Dkt. No. 17 at 3.)

26 In May 2018, Plaintiff sued Defendant in Washington state court, alleging that Margaret

1 was not competent or was under an insane delusion when she executed the 2015 Will and named
2 Defendant as a beneficiary. (Dkt. No. 1-1 at 6.) Defendant removed the case to this Court. (Dkt.
3 No. 1.) Defendant now moves to dismiss Plaintiff's complaint for lack of personal jurisdiction,
4 and in the alternative for summary judgment because Plaintiff's claims are barred by collateral
5 estoppel. (Dkt. No. 14.)

6 **II. DISCUSSION**

7 A district court must dismiss claims against a defendant if it lacks personal jurisdiction.
8 Fed. R. Civ. P. 12(b)(2). When a defendant seeks dismissal on this ground, the plaintiff must
9 prove jurisdiction is appropriate. *Picot v. Weston*, 780 F.3d 1206, 1211 (9th Cir. 2015). When "a
10 defendant's motion to dismiss is based on a written record and no evidentiary hearing is held,
11 'the plaintiff need only make a prima facie showing of jurisdictional facts.'" *Id.* (quoting
12 *Schwarzenegger v. Fred Martin Motor Co.*, 374 F.3d 797, 800 (9th Cir. 2004)).

13 To determine whether it has personal jurisdiction, a federal court applies the law of the
14 forum state, as long as that law is consistent with federal due process. *Daimler AG v. Bauman*,
15 134 S. Ct. 746, 753 (2014). Washington grants courts the maximum jurisdictional reach
16 permitted by due process. *Easter v. Am. W. Fin.*, 381 F.3d 948, 960 (9th Cir. 2004). Thus, the
17 only question remaining for the Court is whether its exercise of jurisdiction comports with the
18 limitations imposed by due process. *Helicopteros Nacionales de Colombia, S.A. v. Hall*, 466
19 U.S. 408, 413 (1984). A court may not exercise jurisdiction over a defendant if doing so would
20 "offend traditional notions of fair play and substantial justice." *Int'l Shoe Co. v. Washington*, 326
21 U.S. 310, 316 (1945). Fair play and substantial justice mandate that a defendant have minimum
22 contacts with the forum state before it may be haled into a court in that forum. *Id.*

23 Specific jurisdiction permits a district court to exercise jurisdiction over a nonresident
24 defendant for "suit-related conduct . . . that create[s] a substantial connection with the forum
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1 State.” *Walden v. Fiore*, 134 S. Ct. 1115, 1121 (2014).² To prove that specific jurisdiction exists,
2 a plaintiff must demonstrate that: (1) a defendant purposefully directed its activities at the forum
3 state or purposefully availed itself of the privilege of conducting activities there, (2) the lawsuit
4 arises out of or relates to the defendant’s forum-related activities, and (3) the exercise of
5 jurisdiction is reasonable. *Picot*, 780 F.3d at 1211. The plaintiff has the burden of establishing
6 the first two prongs, and if he or she is successful the burden shifts to the defendant “to set forth
7 a ‘compelling case’ that the exercise of jurisdiction would not be reasonable.” *CollegeSource,*
8 *Inc. v. AcademyOne, Inc.*, 653 F.3d 1066, 1076 (9th Cir. 2011) (quoting *Burger King Corp. v.*
9 *Rudzewicz*, 471 U.S. 462, 476–78 (1985)).

10 The “purposeful availment requirement ensures that a defendant will not be haled into a
11 jurisdiction solely as a result of random, fortuitous, or attenuated contacts” *Burger King*
12 *Corp.*, 471 U.S. at 475 (internal quotations omitted). When a defendant does business in the
13 forum, such as executing or performing a contract, it “purposefully avails itself of the privilege
14 of conducting activities within the forum State, thus invoking the benefits and protections of its
15 laws.” *Hanson v. Denckla*, 357 U.S. 235, 253 (1958). A defendant purposefully directs its
16 conduct toward a forum state when its actions are intended to have an effect within the state.
17 *Schwarzenegger*, 374 F.3d at 803.

18 Plaintiff cites several contacts between Defendant and Washington to argue that
19 Defendant has purposefully directed its activities at Washington or availed itself of the privilege
20 of conducting activities in Washington. First, Plaintiff argues that “[t]here were continuing
21 obligations of Washington residents towards [Defendant] due to its status as a beneficiary of the
22 estate and nonprobate asset of Margaret Rai-Choudhury.” (Dkt. No. 17 at 10.) In support of her
23 argument, Plaintiff cites a passage of *Ballard* stating that “the purposeful availment requirement

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25 ² Plaintiff does not argue that the Court has general jurisdiction over Defendant. (Dkt.
26 No. 17 at 9–14.) The Court agrees, as the record does not demonstrate that Defendant has the
type of continuous and systematic contacts that would render it “at home” in Washington. See
Bauman, 517 U.S. at 127.

1 is satisfied if the defendant has taken deliberate action within the forum state or *if he has created*
2 continuing obligations to forum residents.” (*See id.*) (citing *Ballard*, 65 F.3d at 1498) (internal
3 quotations omitted) (emphasis added)). Notably absent from Plaintiff’s contention is an
4 allegation that Defendant created this obligation, as it did not cause Margaret to name it as a
5 beneficiary of her estate, or argument establishing the obligation a passive will beneficiary owes
6 a state or its residents. (*See* Dkt. No. 15 at 2.) Thus, Plaintiff has not demonstrated that
7 Defendant’s availment on this ground, if any, was purposeful.

8 Second, Plaintiff contends that after Defendant was contacted by the estate’s attorney, it
9 “sent a letter acknowledging the notification that it was a beneficiary of assets of [Margaret’s
10 estate].” (Dkt. No. 17 at 12.) Plaintiff details the subsequent correspondence, which included
11 Margaret’s estate notifying Defendant of the possibility of litigation, later updates about
12 Plaintiff’s will challenge in state court, and Defendant’s acknowledgement that its interest may
13 be challenged by Plaintiff. (*Id.*) Defendant’s correspondence to Margaret’s estate in Washington
14 were intentional acts. But Defendant’s correspondence did not create a contract or other business
15 relationship that availed it of the privilege of conducting activities in Washington. *Picot*, 780
16 F.3d at 1211. Rather, any relevant relationship between Defendant and Washington existed when
17 Margaret, absent any purposeful action by Defendant, executed the 2015 Will and named
18 Defendant as a beneficiary.

19 Similarly, Defendant’s correspondence with Margaret’s estate did not constitute
20 purposeful direction of activities toward Washington. The correspondence between Defendant
21 and Margaret’s estate cited by the parties was informational in nature, as it concerned Defendant
22 being notified of its being named as a passive beneficiary in the 2015 Will and the likelihood of a
23 will contest, updates about the Washington state court litigation to which Defendant was not a
24 party, and an email from Margaret’s estate providing the contact information for Wells Fargo.
25 (Dkt. No. 17-2 at 15–50.) None of the correspondence evidences an attempt by Defendant to take
26 possession of the assets at issue, and Defendant has in fact not taken possession to date. (*Id.*; Dkt.

1 No. 15.)³ Thus, Defendant's correspondence with Margaret's estate does not constitute
2 purposeful direction, as it did not have any relevant effect in Washington or on Washington
3 residents. *Picot*, 780 F.3d at 1211; *Schwarzenegger*, 374 F.3d at 803.

4 Third, Plaintiff contends that the assets at issue are located in Washington, and therefore
5 Defendant's participation in the distribution of the assets should render it subject to specific
6 jurisdiction in Washington. (Dkt. No. 17 at 12.) But the location of the assets at issue does not
7 control the determination of where a given defendant is subject to personal jurisdiction. *See*
8 *Lazar v. Kroncke*, 862 F.3d 1186, 1201–02 (9th Cir. 2017), *cert. denied*, 138 S. Ct. 2647 (2018)
9 (holding that federal district court in California properly concluded it did not have specific
10 jurisdiction over defendant estate although disputed asset was an Individual Retirement Account
11 opened in California and maintained by a California corporation and defendant estate sent a
12 demand letter regarding the account from California).

13 Therefore, Plaintiff has not established that Defendant has purposefully directed its
14 activities at the forum state or purposefully availed itself of the privilege of conducting activities
15 there, and thus has not carried her burden under the first prong of the specific jurisdiction
16 analysis. *CollegeSource, Inc.*, 653 F.3d at 1076. Rather, Margaret's naming of Defendant in the
17 2015 Will absent any purposeful influence from the Defendant is akin to a fortuitous event that
18 does not render Defendant subject to the Court's jurisdiction. *Burger King Corp.*, 471 U.S. at 47.

19 The Ninth Circuit applies "a 'but for' test to determine whether a particular claim arises
20 out of forum-related activities and thereby satisfies the second requirement for specific
21 jurisdiction." *Ballard v. Savage*, 65 F.3d 1495, 1500 (9th Cir. 1995) (citing *Shute v. Carnival*
22 *Cruise Lines*, 897 F.2d 377 (9th Cir. 1990), *rev'd on other grounds*, *Carnival Cruise Lines, Inc.*

23 ³ Plaintiff argues that the delay in Defendant taking possession of the assets "would not
24 prevent have prevented [sic] a suit against a defendant located in Washington." (Dkt. No. 17 at
25 13) (citing Wash Rev. Code §§ 11.96A.080(2), 11.96A.030). Plaintiff has not provided
26 substantive argument demonstrating that her ability to seek relief against a Washington
defendant under the same facts confers the Court jurisdiction over an out-of-state defendant who
has not created contacts with Washington in order to take possession of the asset.

1 *v. Shute*, 499 U.S. 585 (1991)).

2 Plaintiff has not established that Defendant's actions are a "but for" cause of her claim.
3 *Ballard*, 65 F.3d at 1500. Plaintiff's complaint alleges that Margaret was not competent or was
4 under an insane delusion when she executed the 2015 Will. (Dkt. No. 1-1 at 6.) In support of her
5 claim, Plaintiff cites Margaret's bizarre behavior toward the end of her life and her historically
6 positive relationship with Plaintiff. (*Id.* at 2–5.) Plaintiff's complaint does not assert that
7 Defendant's alleged purposeful actions toward Washington, such as its correspondence with
8 Margaret's estate, caused Margaret to not be competent when she executed the 2015 Will or
9 caused Margaret to name Defendant as a beneficiary. (*See generally id.*) Moreover, the 2015
10 Will would still have named Defendant as a beneficiary and Plaintiff's cause of action
11 challenging the validity of the 2015 Will would still exist absent the contacts between Defendant
12 and Washington cited by Plaintiff in her response to Defendant's motion to dismiss. Therefore,
13 Plaintiff has also not carried her burden under the second prong of the specific jurisdiction test of
14 demonstrating that Defendant's contacts with Washington gave rise to the claim at issue.

15 *CollegeSource, Inc.*, 653 F.3d at 1076.

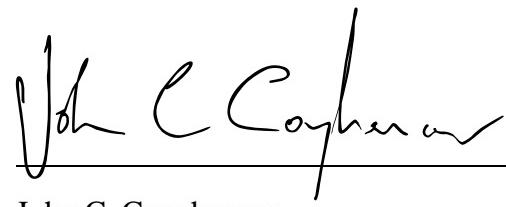
16 Because Plaintiff has failed to carry her burden of establishing the first two prongs of the
17 specific jurisdiction test, the Court need not reach the issue of whether Defendant has carried its
18 burden of establishing that the exercise of jurisdiction would not be reasonable. *CollegeSource,*
19 *Inc.*, 653 F.2d at 1076. Therefore, Defendant's motion to dismiss for lack of personal jurisdiction
20 is GRANTED and Plaintiff's complaint is DISMISSED. Because the Court dismisses for lack of
21 personal jurisdiction, it need not reach Defendant's motion for summary judgment arguing that
22 Plaintiff's claim is barred by collateral estoppel. (Dkt. No. 14 at 9–11.)

23 **III. CONCLUSION**

24 For the foregoing reasons, Defendant's motion to dismiss (Dkt. No. 14) is GRANTED.
25 Plaintiff's complaint is DISMISSED for lack of personal jurisdiction.

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2 DATED this 19th day of December 2018.
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7 John C. Coughenour
8 UNITED STATES DISTRICT JUDGE
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